

FILED IN THE  
U.S. DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

**Apr 17, 2020**

SEAN F. McAVOY, CLERK

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

JIMMY ELLIS CLARK,

Plaintiff,

v.

TIM BLACKMAN,

Defendant.

No. 2-19-cv-00166-SMJ

**ORDER DENYING MOTION FOR  
RECONSIDERATION AND  
GRANTING IN PART MOTION  
FOR ADDITIONAL TIME TO  
EFFECT SERVICE**

Before the Court, without oral argument, is *pro se* Plaintiff Jimmy Ellis Clark's "Motion for Enlargement of Time Fed. R. 6(b) and Reconsideration of Motion to File Supplemental Pleading 15(a)(2) and Motion for Joinder 19(a)(1)," ECF No. 14. Having reviewed the motions and the record, the Court is fully informed, denies the motion for reconsideration, and grants a limited extension of the time in which to effect service of the Summons and Complaint on Defendant Tim Blackman.

**MOTION FOR RECONSIDERATION**

Plaintiff appears to move the Court to reconsider its earlier ruling denying his motion to add, as additional Defendants, Stevens County Superior Court Judges

1 Rebecca Baker and Jessica Reeves and Stevens County Deputy Prosecuting  
2 Attorney Lloyd Nickel.<sup>1</sup> ECF No. 14 at 2–7. Plaintiff alleged these individuals, who  
3 apparently took part in the foreclosure proceedings giving rise to this litigation,  
4 lacked authority under Washington law to occupy their respective offices. *See* ECF  
5 No. 10-2 at 28–29. The Court denied those motions, concluding the *Rooker-*  
6 *Feldman* doctrine prohibited it from exercising jurisdiction over Plaintiff’s *de facto*  
7 appeal of the foreclosure judgment. ECF No. 13 at 1–5.

8 Prior to entry of final judgment, the Federal Rules of Civil Procedure provide  
9 no mechanism by which the Court may reconsider a prior order. *See* Fed. R. Civ.  
10 P. 59(e). It is the general practice of this Court to entertain such motions consistent  
11 with the procedures governing motions for reconsideration in the United States  
12 District Court for the Western District of Washington.<sup>2</sup> Under that standard, the

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14 <sup>1</sup> The Court also infers that Plaintiff seeks to amend the Complaint to allege for the  
15 first time that the Stevens County Treasurer—earlier identified as Susan Harnash—  
16 failed to comply with Washington law concerning notice of the foreclosure sale of  
17 Plaintiff’s property. *See* ECF No. 14 at 5. Yet in this regard Plaintiff only includes  
18 a quotation from a decision of the Washington Court of Appeals. *Id.* Plaintiff still  
19 fails to include specific factual allegations establishing how Ms. Harnash personally  
20 participated in a deprivation of Plaintiff’s rights, and the Court therefore declines to  
revisit its earlier ruling denying Plaintiff leave to join her as a Defendant. *See* ECF  
No. 9 at 9; ECF No. 13 at 2 n.1.

<sup>2</sup> The Court typically authorizes such motions in civil scheduling orders. However,  
such scheduling orders are only issued after a telephonic scheduling conference,  
which has not been scheduled in this case because the Complaint has not been  
served on Defendant Blackman.

1 party seeking reconsideration must “point out with specificity the matters which the  
2 movant believes were overlooked or misapprehended by the court, any new matters  
3 being brought to the court’s attention for the first time, and the particular  
4 modifications being sought in the court’s prior ruling.” Local Rules W.D.  
5 Wash. 7(h)(2). A motion for reconsideration will ordinarily be denied “in the  
6 absence of a showing of manifest error in the prior ruling or a showing of new facts  
7 or legal authority which could not have been brought to [the Court’s] attention  
8 earlier with reasonable diligence.” Local Rules W.D. Wash. 7(h)(1).

9 In moving for reconsideration, Plaintiff does no more than reiterate the same  
10 legal and factual arguments he put forth when originally moving to join Judges  
11 Reeves and Baker, and Deputy Prosecuting Attorney Lloyd Nickel, as Defendants.  
12 *See* ECF No. 14 at 3 (citing ECF No. 10-2) (describing Stevens County officials as  
13 “usurpers”). In fact, Plaintiff twice incorporates by reference the arguments he put  
14 forth—and which the Court rejected—in his earlier motion. *See id.* at 5 (citing ECF  
15 No. 10-2). Plaintiff points to nothing he believes the Court “overlooked or  
16 misapprehended,” nor “any new matters being brought to the court’s attention for  
17 the first time.” Local Rules W.D. Wash. 7(h)(2). In other words, though Plaintiff  
18 evidently disagrees with the Court’s earlier ruling, he has failed to establish why  
19 that decision merits revisiting. Absent such a basis, the appropriate vehicle to seek  
20 review of the Court’s ruling is an appeal upon entry of final judgment. The motion

1 for reconsideration is denied.

2 **MOTION FOR ENLARGEMENT OF TIME FOR SERVICE**

3 Plaintiff next moves for additional time in which to serve the Summons and  
4 Complaint on Defendant Tim Blackman, as authorized by the Court's Order  
5 Directing Service, ECF No. 9 at 7–8. ECF No. 14 at 1–2. In that Order, entered  
6 December 9, 2019, the Court cautioned Plaintiff that service must be effected within  
7 ninety days—that is, by March 8, 2020. ECF No. 9 at 14. Plaintiff was reminded of  
8 this deadline in the Order Denying Motions to Amend and to Join Additional  
9 Defendant. ECF No. 13 at 8. Plaintiff has not filed a proof of service and did not  
10 seek additional time in which to do so until after the deadline.<sup>3</sup> See ECF No. 14-2.

11 Under Federal Rule of Civil Procedure 6(b)(1)(B), the Court may extend the  
12 time in which “an act may or must be done,” on motion of a party after the deadline  
13 has passed, “if the party failed to act because of excusable neglect.” Plaintiff asserts  
14 additional time is needed to establish “through supplemental pleadings” that the  
15 proposed additional Defendants acted without lawful authority. ECF No. 14 at 1–2.  
16 But the deadline Plaintiff seeks to extend—and which, because it has passed, could  
17 result in this action being dismissed—is that for effecting service of process on

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19 <sup>3</sup> Though the motion is dated March 14, 2020, and was not received by the Court  
20 until March 18, 2020, the transmittal envelope is dated March 16, 2020. ECF  
Nos. 14, 14-2. Service by mail is effective “upon mailing”—here, on March 16,  
2020. Fed. R. Civ. P. 5(b)(2)(C). However, even applying the earliest, March 14  
date, the motion was not filed until after the deadline for service.

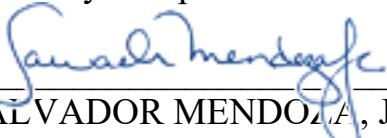
1 Defendant Blackman, against whom the Court permitted Plaintiff's claims to  
2 proceed. ECF No. 9 at 7–8. Plaintiff's motion makes no effort to establish that his  
3 failure to effect service was attributable to excusable neglect, and thus the Court  
4 would typically deny his request for additional time. However, owing to Plaintiff's  
5 *pro se* status, the Court will authorize Plaintiff to effect service **within twenty-one**  
6 **days of the entry of this Order.** Plaintiff is again cautioned that failure to timely  
7 effect service may result in this action being dismissed for failure to prosecute. *See*  
8 Fed. R. Civ. P. 4(m); LCivR 4(m). Plaintiff is further reminded that he is expected  
9 to read and abide by the Federal Rules of Civil Procedure and the Local Civil Rules.

10 Accordingly, **IT IS HEREBY ORDERED:**

11 Plaintiff's Motion for Enlargement of Time Fed. R. 6(b) and  
12 Reconsideration of Motion to File Supplemental Pleading 15(a)(2) and  
13 Motion for Joinder 19(a)(1), **ECF No. 14**, is **GRANTED IN PART**  
14 and **DENIED IN PART** as set out above.

15 **IT IS SO ORDERED.** The Clerk's Office is directed to enter this Order and  
16 provide a copy to *pro se* Plaintiff.

17 **DATED** this 17th day of April 2020.

18   
19 SALVADOR MENDOZA, JR.  
United States District Judge

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ORDER DENYING MOTION FOR RECONSIDERATION AND  
GRANTING IN PART MOTION FOR ADDITIONAL TIME TO EFFECT  
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